



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,004	06/24/2003	Maximilian Bossecker	076326-0255	7719

22428 7590 07/02/2004

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

CULBRETH, ERIC D

ART UNIT	PAPER NUMBER
----------	--------------

3616

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/602,004	Applicant(s) BOSSECKER ET AL. CB	
	Examiner Eric D Culbreth	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/24/03 & 10/27/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. Although the references on the form PTO-1449's have been initialed, it is noted that the entire document of European Patent 849,129 was not in the file (only Figure 4 of the figures is in the copy of the reference on file). It may be possible that the other figures were inadvertently not scanned into the Office's Image File Wrapper. At any rate, to ensure proper consideration, the entire document should be supplied with applicant's next correspondence.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

This refers to the non-initialed, non-dated alterations to the applicants' addresses in the declaration filed 10/27/03.

Also, the foreign filing date of the German document is wrong (6/25/02, not 6/25/03).

Specification

3. The abstract of the disclosure is objected to because in the next to last line "being" should be "is" to form a complete sentence. Correction is required. See MPEP § 608.01(b).

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for claim 22 (adhesive bonding or stitching).

5. The disclosure is objected to because of the following informalities.

Appropriate correction is required.

- a. Page 4, next to last line to page 5, line 4 contains an incomplete sentence.
- b. On page 9, paragraph [0041] it appears inaccurate to infer that parts 26 and 27 are in Figure 2 (if part 27 is still on the holding plate in Figure 2's embodiment, how can the top of the cable at 31a be past plate H1?).
- c. On page 5, lines 1 and 4 each "illustrations" should be "illustration".
- d. On page 8, line 5 "II1" should apparently be "H1".
- e. On page 13, paragraph [0057] is an incomplete sentence.
- f. On page 13, paragraph [0058] it is not clear what is meant by "dart" (this appears to be idiomatic).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 2 there is no antecedent basis for “the region of a lateral roof edge”.

Claim 5 should end with a period.

In claim 12, it is not clear from the disclosure what part(s) is/are meant by “a subassembly”.

In claim 13 and claim 14 each, there is no antecedent basis for “the direction of deployment”.

In claim 16, line 3 there is no antecedent basis for “the lower edge of the airbag”.

In claim 16, line 2, there is no antecedent basis for “the main direction of deployment”.

Claim 15 is indefinite because it recites a spring tensioning the guide between the two deflection elements, but in the disclosure the embodiment with a spring (Figure 2) has only one deflection element.

In claim 17, line 1 “the” or “said” should precede “guide”.

In claim 27, as in the specification, it is not clear what is meant by “dart”.

In claim 29, line 5 there is no antecedent basis for “the lower edge of the airbag”.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3616

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-6, 9-13, 20-21 and 26 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Shirk et al (US Patent 6,168,193, cited by applicant).

Shirk et al discloses an occupant protection device on a motor vehicle comprising air bag 14 along roof 28's edge and deploying downwards to extend in front of at least one side window. A guide 54 extends longitudinally and is connected to the lower edge of the airbag. The guide is movably guided on the motor vehicle body in the direction of deployment of the bag (i.e., it is movably guided downward) (claim 1). The guide 54 is a flexible traction device (cable) at column 2, lines 30-35 (claims 2-3). A run-back stop or pawl 60 prevents movement of the cable in a direction opposite to the direction of movement during deployment, and a deflection element 86 adjacent the pawl 160 inasmuch applicant's disclosed stop adjacent a roller guides the cable (claims 4-6). Regarding claims 9-13, there are two deflection elements 86, 86 spaced in the direction of deployment of the airbag (i.e., vertically) and each connected directly to the vehicle body by a subassembly as indefinitely disclosed (i.e., by the illustrated spindle at the center of each roller 86). Regarding claims 20-21 and 26, the guide is located on the vertical C column at the rear of the passenger compartment and connected to the airbag by a sleeve or pocket 84 unreleasably receiving the guide.

Art Unit: 3616

10. Claims 1, 8, 16 and 19 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Boxey (US Patent 6,237,938, cited by applicant).

Boxey discloses air bag 14 covering windows and along a roof edge, with a guide 150 extending longitudinally and connected to the lower edge of the airbag. The guide is movably guided on the motor vehicle body in the direction of deployment (claim 1). One end of guide 150 is attached to airbag 14 at 158, and the other end is connected to the motor vehicle body (claim 8). The guide moves downward at an inclination via anchoring device 50 so that the bag is increasingly taunted (claim 16). As broadly recited in claim 19, one lower end of the bag is connected to guide 150 and the other lower end connected to the body by tether 144.

11. Claims 1, 14-15, 17 and 28 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Bocker et al (US Patent 5,975,566).

Bocker et al teaches air bag 1 along a roof edge and deploying downwards so that the bag extends at least in front of a side window. A guide 9 extends longitudinally from a lower bag edge and is movably guided downward like the airbag. Spring 13 assists movement of the guide downward, and the spring tension the guide through a deflection element 23 (see Figure 3 where the guide deflects). In view of the indefinite recitation of two deflection elements, Bocker et al meets the positive limitations of the claims. Regarding claim 17, the guide is taunted so that no substantial deflection of the guide occurs transverse to the longitudinal direction of the guide during deployment (i.e., no transverse deflection occurs during deployment except for a small section adjacent the airbag in Figure 3, which would be no “substantial” deflection as broadly

Art Unit: 3616

recited). In regard to claim 28, as member 7 is an eyelug, the cable 9 would pass through (loop around) it.

12. Claims 1, 7 and 21-22 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Wipasuramonton et al (US Patent 6,412,810).

Wipasuramonton et al disclose an air bag 20 on a motor vehicle body along a lateral roof edge deploying downward to extend in front of a window (Figures 1-2). A guide 48 extending longitudinally and connected (integral with) a lower edge of the airbag is movably guided on the motor vehicle body in the direction of deployment of the bag (claim 1), the guide 48 being a closed loop unreleasably formed by stitching (see Figure 7, where the loop 48 is formed by stitching to itself) (claims 7 and 21-22).

13. Claims 1, 23, 25 and 27 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Boxey (US Patent 6,474,678).

Boxey discloses airbag 14 along a vehicle side and guide 80 extending longitudinally and movably guided in the direction of deployment on the vehicle (claim 1). Regarding claims 23, 25 and 27, the releasably connected to the bag inasmuch as applicant's embodiment with a dart (i.e., by removing stitching 142), and flexible tether 80 loops around dart 92 attached to the air bag.

14. Claim 29 as best understood is rejected under 35 U.S.C. 102(b) as being anticipated by Schink et al (US Patent 6,347,807).

Shink et al discloses a protection device comprising an air bag 18 deploying along a vehicle side, string or cable 24 mounted along a vehicle pillar 14 and extending in a vertical direction, and the cable attached to the lower edge part 18' (column 3, lines 40-46) of the airbag and configured to move as the airbag deploys to guide and tauten the air bag as broadly recited (i.e. in tightening the airbag as per the abstract, the bag is guided into position).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

17. Claims 29-31 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Faigle et al in view of Bocker et al.

Faigle et al discloses an airbag 14 deployed downward along a vehicle side and a closed loop element 70 mounted on a pillar of a vehicle configured to move as the airbag deploys to

Art Unit: 3616

guide and tauten the bag. The tether 70 is guided by deflection elements 72, but are preferably fabric (column 2, lines 60-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Faigle et al to include a cable for the closed loop as taught by Bocker et al's cable 9 in order to form the elements of another material in view of Faigle et al's teaching that the elements are made of a material "such as" fabric.

Allowable Subject Matter

18. Claims 18 and 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric D Culbreth
Primary Examiner
Art Unit 3616



ec